

BOROUGH OF HAWORTH

ORDINANCE #19-11

AN ORDINANCE TO AMEND CHAPTER III OF THE CODE OF THE BOROUGH OF HAWORTH ENTITLED, "POLICE REGULATIONS".

BE IT ORDAINED by the Mayor and Council of the Borough of Haworth, County of Bergen, State of New Jersey, as follows:

Section 1.

Chapter III of the Code of the Borough of Haworth, Police Regulations, §3-3, Prohibiting The Use of Polystyrene By Retail Food Establishments, be and is hereby amended to read as follows:

3-3 PROHIBITING THE USE OF POLYSTYRENE, PLASTIC BAGS AND SINGLE USE PLASTIC STRAWS BY FOOD AND RETAIL SALES ESTABLISHMENTS.

3-3.1 Definitions. As used in this section:

Department shall mean the Municipal Recycling Coordinator as designated by the Mayor and Council.

Disposable food container shall mean a container, bowl, plate, tray, **utensil**, carton, ~~cup, lid~~ or other item designed for one-time use for foods. *Disposable food container* includes food ware for take-out foods and leftovers from partially consumed meals prepared by food vendors.

Food establishment shall mean an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, including but not limited to, any establishment requiring a permit to operate in accordance with the State and local regulations.

Plastic shall mean an organic or petroleum derivative synthetic or a semisynthetic organic solid that is moldable, and to which additives or other substances may have been added, except for natural polymers that have not been chemically modified.

Polystyrene shall mean and include expanded polystyrene (EPS) which is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). The term “polystyrene” also include clear or solid polystyrene, which is known as “oriented polystyrene”.

Polystyrene foam shall mean blown polystyrene and expanded and extruded foams using polystyrene.

Post-consumer recycled material shall mean a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Postconsumer recycled material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.

Recyclable, with regard to a material, shall mean that a material that would otherwise be disposed of or processed as waste can be recovered, separated, collected and reprocessed for the purpose of using the reprocessed material in the manufacture of a new product.

Recycled paper bag shall mean a paper bag that is 100 percent recyclable and contains a minimum of 40 percent postconsumer recycled content.

Reusable grocery bag shall mean a sewn bag with stitched handles that is (i) specifically designed and manufactured for at least 175 uses; (ii) can carry 25 pounds over a distance of 300 feet, (iii) is machine-washable or made from a material that can be cleaned or disinfected; (iv) contains a minimum of 20 percent post-consumer recycled material if made from plastic; and minimum 3 mil plastic bag printed as reusable so that it is clear to the customer.

Retail sales establishment shall mean any person, corporation, partnership, business venture, or vendor that sells or provides merchandise, goods or materials directly to a customer, whether for profit or not for profit, including but not limited to restaurants, pharmacies, convenience and grocery stores, liquor stores, seasonal and temporary businesses, jewelry stores, and household goods stores.

Single-use carryout bag shall mean a bag made of plastic, paper, or other material that is provided by a store to a customer at the point of sale that is not a recycled paper bag or a reusable grocery bag.

Single-use plastic straw shall mean a single-use, disposable tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, used to transfer a beverage from a container to the mouth of the person drinking the beverage. "Single-use plastic straw" or container shall not include a straw or container made from non-plastic materials, including, but not limited to, paper, pasta, sugar cane, wood, or bamboo, or a straw or container expressly marketed as and intended for reuse.

3-3.2 Prohibition.

- a. No person may sell or provide in the Borough of Haworth any food ware product composed in whole or in part of extruded expanded polystyrene foam:
 1. No Retail Establishment or Food Distributor shall serve or sell prepared food or beverage in polystyrene foam and shall not package meat, eggs, bakery products, or food in polystyrene foam containers.
 2. No Store, Food Distributor, or Food Packager shall package meat, eggs, bakery products, or other food in polystyrene foam containers.
 3. No Store that sells tangible personal property at retail shall sell polystyrene foam food or beverage containers.
 4. No polystyrene foam food or beverage container shall be used in any government facility or government sponsored event.

5. No government department or facility shall purchase or acquire polystyrene foam food or beverage containers.
 6. All parties who contract with the government shall be prohibited from using polystyrene foam food and beverage containers in government facilities or on government-funded projects within the Borough.
- b. Except as provided in this section, a retail sales establishment shall not provide a single-use carryout bag to a customer at the point of sale or otherwise make plastic bags available to the customers. This prohibition does not apply to:
1. Non-handled bag used to protect items from damaging or contaminating other purchased items placed in a recycled paper bag or a reusable grocery bag.
 2. Bags used by customers inside a business to package loose items, such as fruits, vegetables, nuts, ground coffee, grains, candies, small hardware items; bags used to contain or wrap frozen foods, meat and fish, flowers or potted plants, or other items to contain dampness.
 3. Laundry, dry cleaning, or garment bags, including bags provided by hotels to guests to contain wet or dirty clothing.
 4. Bags sold in packages containing multiple bags intended for use as garbage, pet waste, or yard waste bags.
 5. Bags used to contain live animals, such as fish or insects sold in pet stores.
 6. Bags used to transport chemical pesticides, drain-cleaning chemicals, or other caustic chemicals sold at the retail level; provided that this exemption shall be limited to one bag per customer.
- c. A food or other retail establishment shall not provide a single-use plastic straw or bag to a customer, unless that customer requests a single-use plastic straw or bag due to physical disability or medical condition. A cold drink stirrer may be provided to any customer upon request.

- d. Food establishments required to only provide straws on request shall clearly and visibly display signage developed by the Borough, as described in §3-3.2e of this Ordinance.
- e. The Borough shall design and publish on the municipal website signage advertising this ordinance and explaining that single-use plastic straws are intended primarily for those with a disability.

3-3.3 Reusable Bags, Recycled Paper Bags.

- a. A retail sales establishment may make available for purchase a recycled paper bag, for a charge of no less than \$0.10.
- b. A retail sales establishment may make available for purchase a reusable grocery bag, for a charge of no less than \$0.10.
- c. A retail sales establishment which collects a charge under §3-3.3a and b shall exempt a customer from the paper bag fee when that customer uses an electronic benefits transfer (EBT) card or is using a payment card or voucher issued by the for the Supplemental Nutrition Assistance Program (SNAP) or Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).
- d. All fees collected pursuant to this section shall be retained by the retail sales establishment.
- e. A retail establishment affected by regulations pursuant to §3-3.2b of this Ordinance shall clearly and visibly display at each check-out counter or register signage developed by the Borough as described in §3-3.3f of this Ordinance.
- f. The Borough Environmental Commission shall design educational materials for display in retail establishments. Educational materials shall include, but not be limited to; (i) an announcement of the passage of this ordinance; (ii) a reminder to bring reusable bags; and (iii) the mandatory \$0.10 fee charged on paper and reusable bags.
- g. The Municipal Recycling Coordinator may promulgate rules and regulations to implement §3-3.2 and 3-3.3 of this Ordinance.

3-3.4 Enforcement Penalties.

- a. Upon being made aware of a potential violation of this ordinance, the Department shall investigate and determine whether a violation has occurred.
- b. If the investigation confirms that a violation has occurred, the Department shall give written notice to the owner of the property, the owner's agent, and/or the person committing the violation that the violation is occurring and must immediately cease.
- c. If an additional violation of this Ordinance has occurred within one month after a warning notice has been issued for an initial violation, the Department shall issue a notice of violation and shall impose a penalty against the retail establishment.
- d. The penalty for each violation that occurs after the issuance of the warning notice shall be no more than:
 - 1. \$500 for the first offense.
 - 2. \$1,000 for the second offense and all subsequent offenses.Payment of such fines may be enforced through civil action.

Section 2. Severability.

If any section, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not effect, impair or invalidate the remainder of this Ordinance but shall be confined in its effect to the section, sentence or other part of this Ordinance directly involved in the controversy which such judgment shall be rendered.

Section 3. Inconsistent Ordinances Repealed.

All ordinances or parts or ordinances which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

Section 4. Effective Date.

| This Ordinance shall take effect ~~days~~ 6 months after
publication thereof and final passage as required by law.

THOMAS FERENCE, Mayor

ANN E. FAY, RMC Borough Clerk

Introduced:

Adopted:

Approved: